



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Civil Penalties for Zoning Violations

PUBLIC HEARING DATES

Planning Commission

September 17, 2003 at 8:15 p.m.

Board of Supervisors

November 17, 2003 at 3:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
(703) 324-1314**

August 4, 2003

DP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information call (703) 324-1334.

STAFF COMMENT

The proposed amendment is on the Priority 1 list of the 2003 Zoning Ordinance Amendment Work Program and is prompted by recent changes to the Code of Virginia adopted by the Virginia General Assembly regarding increased civil penalties for violations of the Zoning Ordinance. The proposed amendment incorporates these changes into the Zoning Ordinance.

During the 2003 session of the Virginia General Assembly, House Bill 1888 was adopted to revise Sect. 15.2-2209 of the Code of Virginia, concerning civil penalties for violations of the zoning ordinance. With an effective date of July 1, 2003, the legislation increases the civil penalty for any one zoning violation from a maximum of \$150 to not more than \$250 for each additional summons after the initial summons. A copy of the adopted legislation is contained in Attachment 1. The civil penalty for the initial summons remains at \$100. The total amount which may be charged for civil penalties arising from the same set of operative facts was also increased from \$3000 to \$5000. Staff believes that the imposition of civil penalties is an effective enforcement mechanism and recommends incorporation of the increased civil penalties into the Zoning Ordinance. Accordingly, staff is recommending changes to Paragraphs 1 and 2 of Sect. 18-903 of the Zoning Ordinance to increase the fine for civil penalties as permitted by the recent legislation.

The proposed amendment also revises Par. 1H of Sect. 18-903 to add reference to Par. 14 of Sect. 12-104 of the Zoning Ordinance. Par. 1H lists the prohibited signs contained in Sect. 12-104 that are subject to civil penalties. As part of the recently adopted portable sign Zoning Ordinance amendment, a new Par. 14 concerning signs attached to vehicles/trailers was added to Sect. 12-104 and reference to this new paragraph in Par. 1H of Sect. 18-903 was inadvertently omitted in that portable sign amendment.

Staff believes that an increase in fines will better serve to encourage compliance with the Zoning Ordinance and therefore recommends approval of the proposed amendment with an effective date of 12:01 AM on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of August 4, 2003 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 18, Administration, Amendments, Violations and Penalties, Part 9,**
2 **Violations, Infractions, and Penalties, Sect. 903, Infractions and Civil Penalties, by**
3 **revising Paragraphs 1 and 2 to read as follows:**
4

- 5 1. A violation of the following provisions of this Ordinance shall be deemed an infraction and
6 shall be punishable by a civil penalty of \$100 for the first violation; any subsequent
7 violations arising from the same set of operative facts shall be punishable by a civil penalty
8 of ~~\$150~~ 250 for each separate offense:
9
- 10 A. Conduct of a use, accessory use, and/or home occupation in violation of Par. 5, 6, or
11 8 of Sect. 2-302.
12
- 13 B. Occupancy of a dwelling unit in violation of Sect. 2-502.
14
- 15 C. Obstruction of sight distance on corner lots in violation of Sect. 2-505.
16
- 17 D. Keeping of animals in violation of Sect. 2-512.
18
- 19 E. Conducting an accessory use in violation of Par. 9 or 24 of Sect. 10-102.
20
- 21 F. Parking a commercial vehicle in an R district in violation of Par. 16 of Sect. 10-102.
22
- 23 G. Location of basketball standard in a front yard in violation of Par. 12C of Sect.
24 10-104.
25
- 26 H. Erection of prohibited signs on private property in violation of Par. 1, 4, 5, 6, 7, 11,
27 12, ~~or~~ 13 or 14 of Sect. 12-104.
28

1 I. Erection, alteration, refacing or relocation of a sign on private property in violation of
2 Sect. 12-301.

3

4 J. Occupancy or use of structure without approval of a Residential or Non-Residential
5 Use Permit in violation of Sect. 18-701.

6

7 2. Each day during which any violation of the provisions enumerated in Par. 1 above is found
8 to have existed shall constitute a separate offense. However, in no event shall any such
9 violation arising from the same set of operative facts be charged more frequently than once
10 in any ten (10) day period, nor shall a series of such violations arising from the same set of
11 operative facts result in civil penalties which exceed a total of ~~\$3000~~ 5000.